to an undertaking where it is a Member State's sole steel producer, are vitiated by a misuse of powers and must therefore be annulled. The aim of guaranteeing a Member State's supply of steel products cannot be pursued within the framework of the quota system established under Article 58 of the ECSC Treaty.

REPORT FOR THE HEARING
delivered in Joined Cases 351 and 360/85 *

I — Facts and procedure

1. Decision No 234/84/ECSC of 31 January 1984 on the extension of the system of monitoring and production quotas for certain products of undertakings in the steel industry (Official Journal 1984, L 29, p. 1) was amended as a result of the insertion of a new provision, Article 14 D, by Commission Decision No 2760/85/ECSC of 30 September 1985 (Official Journal 1985, L 260, p. 7).

2. Article 14 D provides as follows:

'The Commission may grant additional supplementary quotas up to a maximum of 25 000 tonnes per quarter to an undertaking:

(i) which is the sole undertaking in the country in which it is situated;

(ii) which is confronted with exceptional difficulties, even after receiving a quota supplement under the provisions of Article 14;

(iii) which has not received aids under the provisions of Decision No 1018/85/ECSC.'

3. Decision No 2760/85/ECSC, by virtue of Article 2 thereof, took effect on 1 July 1985.

4. By applications lodged at the Court Registry on 18 and 22 November 1985, the applicants instituted proceedings for the annulment of the aforesaid decision under the second paragraph of Article 33 of the ECSC Treaty.

5. The writen procedure followed the usual course. By decision of 4 June 1986, the cases were assigned to the Sixth Chamber. By order of 1 July 1986, the two cases were joined for the purposes of the oral procedure and the judgment.

By order of 8 July 1986, the Danish Government was granted leave to intervene in the proceedings in support of the Commission's conclusions.

On hearing the Report of the Judge-Rapporteur and the views of the Advocate General, the Court decided to open the oral procedure without any preparatory inquiry. However, it requested the Commission to

* Languages of the Cases: French and German.

provide it with certain information; the Commission complied with that request within the period set by the Court.

II — Conclusions of the parties

(a) *In Case 351/85*

1. The applicant claims that the Court should:

Declare that the application is well founded;

Annul Commission Decision No 2760/85/ ECSC inasmuch as it is vitiated by a misuse of powers;

Order the Commission to pay the costs.

2. In its reply, the applicant claims that the Court should:

Take formal note of the extension of the application to encompass Article 14 C of Commission Decision No 3485/85/ECSC of 27 November 1985 extending the system of monitoring and production quotas for two years;

Declare the present application well founded and annul Commission Decision No 2760/85/ECSC, as confirmed by Article 14 C of Decision No 3485/85/ ECSC, inasmuch as Decision No 2760/85/ ECSC and Article 14 C are vitiated by a misuse of powers;

Order the Commission to pay the costs.

(b) *In Case 360/85*

1. The applicant claims that the Court should:

Annul Commission Decision No 2760/85/ ECSC of 30 September 1985 amending Commission Decision No 234/84/ECSC on the extension of the system of monitoring and production quotas for certain products of undertakings in the steel industry;

Order the defendant to pay the costs.

2. In its reply, the applicant claims that the Court should:

Annul Commission Decision No 2760/85/ ECSC of 30 September 1985 amending Decision No 234/84/ECSC on the extension of the system of monitoring and production quotas for certain products of undertakings in the steel industry, in addition to Article 14 C of Commission Decision No 3485/85/ECSC of 27 November 1985 on the extension of the system of monitoring and production quotas for certain products of undertakings in the steel industry;

Order the defendant to pay the costs.

3. The Commission considers that 'the extension of the applications' to encompass Decision No 3485/85/ECSC is inadmissible and maintains the conclusions set out in its defence, in which it contends that the Court should:

Dismiss the applications;

Order the applicants to pay the costs.

III — Submissions and arguments of the parties

Scope of the applications

1. The applicants seek the annulment of Decision No 2760/85/ECSC. However, since the new general decision,

No 3485/85/ECSC, extended the system of monitoring and production quotas and, consequently, the validity of the contested Article 14 D (at present Article 14 C), they also sought, in their replies, to extend their applications so as to encompass Decision No 3485/85/ECSC.

2. In support of that further claim, the applicant in Case 351/85 argues that it is incorrect to speak of an extension of the system of production quotas since, for there to be an extension, previous decisions on quotas must necessarily have fixed a date for the expiry of the quota system, which, as a result of the extension, is deferred. According to Article 58 (3) of the ECSC Treaty, the expiry of the quota system is not subject to review by the Commission but is a matter for the Council. It follows that any Commission decision establishing a quota system is valid for an indeterminate period, as the Commission has no power to fix the date of its expiry. Decision No 3485/85/ECSC is therefore in fact a decision amending the system of production quotas established by the Commission in 1980.

In any event, the fact that Decision No 2760/85/ECSC was confirmed by Decision No 3485/85/ECSC should be regarded as a fresh issue arising in the course of the proceedings and permitting the applicant, in accordance with the proper administration of justice and the requirements of procedural economy, to amend its conclusions and submissions accordingly.

3. The applicant in Case 360/85 contends that the new Article 14 C is virtually identical to the former Article 14 D. However, the restriction on the grant of supplementary quotas, which formed the subject-matter of the third indent of Article 14 D and according to which such quotas may be granted only to an undertaking 'which has not received aids under the provisions of Decision No 1018/85/ECSC', has been repealed. The repeal of that condition does not alter the fact that the new Article 14 C maintains the system established by the former Article 14 D, although it alleviates the conditions in which Det Danske Stalvalsevaerk (hereinafter referred to as 'DDS') operates, thereby creating even greater distortions of competition for its competitors. In those circumstances, and in accordance with the requirements of procedural economy, the applicant considers its claim to be admissible and well founded.

4. The Commission objects to the extension, at this stage, of the scope of the applications, on the ground that the applicants should have instituted fresh proceedings against Decision No 3485/85/ECSC.

Moreover, the Commission considers that Decision No 3485/85/ECSC has substantially amended Decision No 234/84/ECSC with the result that, in practice, it constitutes a new decision, or at any rate a substantial amendment of the previous decision.

Substance

(a) *Case 351/85*

1. The applicant raises the same objections against the two decisions in question.

On the whole, it considers that the adoption of the contested decision under cover of a general decision would appear to be a method used by the Commission in order to guarantee that a Member State's supply of iron and steel products will, at any rate in part, be ensured by an undertaking established within the territory of that State. Hence the effect of the decision is to confer

on that undertaking a preferential right to supply its domestic market. In so doing, the Commission was guilty of a manifest misuse of powers, inasmuch as it exercised the powers conferred upon it by Article 58 of the ECSC Treaty not for the preservation and maintenance of the common market in steel but in order to confer upon undertakings which are the sole steel producers in the Member States in which they are situated a preferential right on their domestic market, an attitude which can ultimately lead only to the disintegration of the common market.

The applicant refers to the recital in the preamble to the contested decision to the effect that 'the guarantee of supply in a Community country, as far as steel products are concerned, is a factor which must be taken into account to fully appreciate the question of whether it is appropriate to grant an undertaking supplementary quota necessary to guarantee its existence'. In its view, such an attitude is contrary to the ECSC Treaty, since the problem of security of supply calls for a Community approach inasmuch as it is one of the fundamental objectives laid down in Article 2 of the ECSC Treaty. The adjustment of quotas by reference to the state of the domestic market alone was, moreover, rejected by the Court as unlawful in its judgment of 19 September 1985 in Joined Cases 63 and 147/84 *Finsider* [1985] ECR 2857, at p. 2873.

The applicant considers, moreover, that the Commission's misuse of powers to the advantage of DDS is all the more strikingly demonstrated by the fact that: (a) that undertaking benefits to a large extent from the possibilities offered by the existence of the common market, and (b) that it has, since the onset of the steel crisis, benefited from treatment which was generally more favourable than that accorded to other undertakings in that sector. In that regard, the applicant refers to figures showing that DDS's production in 1983 and 1984 increased, whereas its own production diminished. Similarly, employment trends in that sector are positive only in Denmark and Ireland.

2. The Commission emphasizes that the contested decision constitutes a set of general and abstract rules which does not individually distinguish the undertakings concerned. Three countries are affected by its terms although, so far, only the Danish undertaking DDS has benefited from the grant of additional quotas under Article 14 D.

As regards the judgment in *Finsider*, the Commission considers that it does not have the meaning attributed to it by the applicant. The Court has never ruled out the possibility that the Commission may, on equitable grounds and on the basis of objective criteria, grant supplementary quotas to undertakings confronted with exceptional difficulties. That is accomplished by Article 14 D of the contested decision, which is closely connected with Article 14 of the general decision.

The Commission also relies on the Court's judgment of 10 July 1984 in Case 72/83 *Campus Oil* [1984] ECR 2727 in support of the argument that the need for supplies of iron and steel products is just as important as the need for supplies of petroleum products and therefore substantiates the legality of the measure adopted.

Finally, the Commission considers that there is no discrimination against other Community undertakings in favour of DDS and that the applicant has not suffered any damage resulting from the adoption of Article 14 D since its production and its sales prospects have not been affected. In any event, if there were any repercussions on prices — which has not been established by the applicant — the Commission could

take action by fixing abatement rates. Finally, in the Commission's view, the argument alleging that the application of Article 14 D resulted in DDS being treated more or less favourably is not relevant in a dispute concerning the legality of that article.

3. In its reply, the applicant states that, since the quotas are calculated on the basis of all the possibilities which exist at Community level, the additional quotas reserved to DDS are either deducted from the total amount allocated to the other undertakings or else are added on to the quotas as a whole, leading to overproduction and a fall in prices. This was also recognized by the Commission, which acknowledged the possibility of taking action, in the event of a fall in prices, by the fixing of abatement rates, meaning that the overall reduction in output would have to be shared out amongst all the iron and steel undertakings of the Community.

Finally, the applicant denies that the considerations adopted by the Court in *Campus Oil* could apply here, since different situations are involved, and it also emphasizes that the ECSC Treaty was in fact designed to prevent a situation of that kind from arising by providing for Community measures to guarantee supplies of iron and steel products.

4. In its rejoinder, the Commission lays particular emphasis on the fact that the applicant has failed to establish either that it suffered damage as a result of the adoption of the contested measure or that there is a causal connection between that measure and the trend in steel prices on the Community market. The Commission also emphasizes that the contested decision is based on the principle of solidarity, in accordance with the objectives of the Community and in particular with Article 3 (f) of the ECSC Treaty, in order to help DDS to deal with the exceptional difficulties with which it has to contend.

(b) *Case 360/85*

1. The applicant relies, in this case as well, on a general submission to the effect that the contested decision, notwithstanding its general and abstract wording, constitutes in fact merely a set of individual rules applicable to a particular case. That the contested decision is in the nature of an individual decision is apparent, according to the applicant, in particular from the fact that the only undertaking which could benefit from it was DDS. Moreover, that was the aim of the contested decision, as is clear from the second recital in the preamble thereto. The fact that, in its opinion, given pursuant to Article 58 of the ECSC Treaty, the Council refers to an amendment of Decision No 234/84/ECSC 'in favour of the sole steel producer in Denmark', also confirms that the contested decision is in the nature of an individual decision. Accordingly, the very fact that it endowed the contested decision with the appearance of an abstract and general measure is evidence that the Commission abused its legislative powers in order to conceal the nature of that decision, which is that of an individual decision. Such an attitude is contrary to the principle of the rule of law.

2. As in Case 351/85, the Commission emphasizes that the contested decision constitutes a general and abstract set of rules which does not individually distinguish any undertakings which come within its scope. Although it is true that the interests of DDS featured prominently in the discussions and that DDS alone has so far satisfied the conditions of eligibility for the grant of additional quotas under Article 14 D, the possibility cannot be ruled out that other undertakings might also qualify

for additional quotas if they fulfil the conditions laid down.

3. In its reply, the applicant refers to the case-law of the Court concerning individual measures and legislative measures and comes to the conclusion that the application in the circumstances of this case of the criteria laid down by the Court shows that the decision involved is in the nature of an individual decision. Moreover, the Commission has acknowledged that no other undertaking qualified for the allocation of quotas under the contested provision.

4. In its rejoinder, the Commission disagrees with the conclusions drawn by the applicant from the case-law of the Court, and takes the view that any interpretation of a provision must be based primarily on its wording. It is clear that Article 14 D/C is couched in general and abstract terms.

5. Even if the contested decision were regarded as a general and abstract set of rules, the applicant considers that, by adopting it, the Commission was guilty of a misuse of powers, exceeding the powers conferred upon it by Article 58 of the ECSC Treaty. The Commission based the allocation of the quota supplement on the ground that it was necessary 'in order to guarantee the existence' of DDS. According to the Court's judgment of 7 July 1982 in Case 119/81 *Klöckner* [1982] ECR 2627, an undertaking may not claim individual supplementary quotas solely on the ground that a higher utilization rate of its capacity is necessary in order to guarantee its existence. Hence, in its judgments of 3 March 1982 in Case 14/81 *Alpha Steel* [1982] ECR 749 and of 19 September 1985 in Joined Cases 63 and 147/84 *Finsider* [1985] ECR 2857, the Court held that the quota system must be based on the principle that 'the relative market shares of undertakings must be frozen' and the principle of neutrality of competition must be complied with. Article 14 thus enumerates exhaustively the cases in which quotas may be allocated to undertakings confronted with 'exceptional difficulties'.

6. The Commission contends, as in Case 351/85, that the Court has never prohibited it from alleviating, on equitable grounds and in compliance with objective criteria, the specific difficulties which the quota system entails for certain undertakings. That is why Article 14 D merely established a criterion which enabled the undertakings concerned to be granted supplementary quotas over and above those which Article 14 makes it possible to grant, where the first quota allocation proves to be insufficient to enable the undertaking in question to overcome the exceptional difficulties confronting it. Article 14 D should be viewed in close connection with Article 14, which it supplemented in order to take account of the specific circumstances of individual undertakings, so as to remedy the excessive rigidity of the quota system. The Commission fails to understand why it should be considered guilty of a misuse of powers for taking that point of view into account in the statement of reasons for its decision, which, moreover, is covered by the very scheme of Article 14.

7. In its reply, the applicant states that Article 14 D, and subsequently Article 14 C, do not lay down any criterion for determining the existence of a particularly difficult situation apart from the criteria already set out in Article 14. The only additional criterion is that of an undertaking being a country's sole iron and steel producer, and that state of affairs can never on its own constitute a particularly difficult situation. Moreover, the applicant regards the Commission's statement that Articles 14 D and 14 C must be viewed in

conjunction with Article 14 as contradictory and substantially incorrect. Article 14 lays down restrictive criteria which have been set aside in this case for the benefit of DDS.

8. The applicant also regards as a misuse of powers the fact that, in its contested decision, the Commission conferred on the Member States the right to maintain an iron and steel undertaking on which they allegedly 'depend'. In the first place, the Member States cannot be the addressees of a decision allocating quotas, in accordance with Article 80 of the ECSC Treaty, and to confer upon them an individual right to obtain a quota would be incompatible with the fundamental principles of the ECSC Treaty, and in particular Article 2 thereof. Secondly, the contested decision is contrary to the prohibition of discrimination laid down by Article 4 (b) of the ECSC Treaty, inasmuch as it restricts an advantage exclusively to the territory of a Member State. If such a right existed, it would have to be conferred on all the substantial parts of the common market and not only on those which happen to correspond to the territory of a Member State. Apart from that, a regional right to the maintenance of a production unit would be incompatible with the basic principles of the common market. Instead, according to Article 2 of the ECSC Treaty, the choice of location for a production unit depends exclusively on the most favourable factors of production and not on the frontiers of a Member State. The only exception, which is provided for by the second paragraph of Article 2 of the ECSC Treaty, is the case of measures likely to promote fundamental and persistent disturbances in the economies of a Member State. That exception was extended to Greece and Ireland by Article 16 of Decision No 234/84/ECSC. By failing to adopt that course of action in the case of Denmark, the Commission acknowledged that the conditions laid down for treating that country as an exceptional case were manifestly not fulfilled.

9. The Commission argues that it does not follow from the criterion of an undertaking being a Member State's sole steel producer that the undertaking's right to a supplementary quota is replaced by the right of the Member State concerned to maintain that undertaking. Articles 14 D and 14 C are concerned with the right of an undertaking to supplementary quotas subject to fulfilment of the conditions laid down in those provisions. With regard to the legality of that right, the Commission relies, as in Case 351/85, on the Court's judgment of 10 July 1984 in Case 72/84 *Campus Oil* [1984] ECR 2727, in view of the similarity between the situations involved in both cases. It may be as important for a country's economy to secure its supplies of iron and steel products as it is to secure its supplies of petroleum products.

Finally, the Commission maintains that it is difficult to place Denmark on the same footing as Greece and Ireland. However, the insolvency of DDS puts the Danish Government in an awkward position, independently of the fact that, by applying Article 16 of Decision No 234/84/ECSC in this case, the Commission acted in the manner alleged by the applicants, that is to say it resolved a specific case by means of a general decision.

10. The applicant contends that although, viewed from a purely formal angle, the criterion that an undertaking is the 'sole steel undertaking in a Member State' does not replace a right vested in an undertaking with a right vested in the Member State

concerned, the supplementary quota is detached from the undertaking in order to be allocated to a given Member State, contrary to the aim of the principle established by the ECSC Treaty of creating a European common market in iron and steel products.

11. The applicant relies on the same submissions in challenging the contested decision as an individual measure. In its view, the decision in question infringed, in particular, the prohibition of discrimination laid down in Article 4 (b) of the ECSC Treaty, inasmuch as the allocation of quotas is connected with an undertaking's nationality.

12. The Commission considers, referring to the abatement rates for 1985 and the first quarter of 1986 in respect of the different categories of iron and steel products, that the additional quotas allocated to DDS have not had the effect of discriminating against competing undertakings from other Member States or of placing them at a disadvantage.

13. The applicant further submits that the contested decision is vitiated by a flaw in the statement of reasons, in so far as the decision incorrectly states that the Danish market 'depends' on DDS for its supply of iron and steel products. In view of the existence of a Community surplus of several million tonnes, it is impossible to claim in earnest that the supply of steel in Denmark depends on the allocation of a supplementary quota of 100 000 tonnes to DDS. Moreover, over two-thirds of DDS's steel production consists of reversing-mill plates. However, out of Denmark's present output of approximately 310 000 tonnes, not less than 257 000 tonnes were exported in 1984. In fact, the threat to Denmark's steel supply is as negligible as the threat to the supply of other Community regions or countries which are of a comparable size or have a comparable population and in which there is no steel producer. Finally, as DDS produces only certain types of iron and steel products, it is quite clear that the supply of all the other iron and steel products on the Danish market by other undertakings does not raise the slightest problem either.

14. The Commission refers to the production figures and to the distribution of DDS's products on the Danish, Community and non-Community markets. It maintains that it has no information regarding the markets on which DDS sold or sells the supplementary quantities allocated on the basis of Article 14 D but it does not expect there to be any repercussions on the prices of the products in question, particularly since it may have an opportunity to take action by adjusting the abatement rates.

15. In its reply, the applicant refers, in particular, to the damage which it sustained as a result of the contested decision. That damage consists, in particular, in the loss of sales, the fall in prices and the difficulties experienced by all of DDS's competitors in disposing of their products. Those problems are more acute on the German market, which is where DDS sells each quarter approximately 6 500 to 7 000 additional tonnes of products falling within Category II.

16. In its rejoinder, the Commission regards the damage alleged by the applicant as theoretical and not proven. During the period in question, the prices for products in Category II remained relatively stable. Furthermore, no causal connection has been established between the quotas allocated and the fall in prices.

17. The Danish Government has set forth in the first part of its observations some

general remarks concerning the quota system and the relevant case-law of the Court. In particular, the Danish Government infers from the preamble to the original decision establishing the quota system, and from Article 14 thereof, the existence of a principle of solidarity according to which not only must all undertakings bear in equal measure the consequences of the limits set to production, but also, and in particular, undertakings for which the quota system does not create particular difficulties are called upon to make a further effort so as to ensure the survival of undertakings which may be confronted with exceptional difficulties. It follows that any loss suffered by the applicants as a result of the allocation to DDS of additional quotas under Article 14 D merely reflects the burden which all the steel undertakings covered by the quota system are required to bear by virtue of the principle of solidarity.

As regards the relevant case-law of the Court, the Danish Government argues, in particular, that it follows from that case-law that the Commission has a broad discretion with regard to the assessment of economic and political factors, not only in connection with the operation of the quota system but also in connection with the establishment thereof.

18. With regard to the contention that the contested decision is in the nature of an individual decision, the Danish Government refers essentially to the Commission's arguments on that point and emphasizes that the fact that the decision was adopted after the specific difficulties encountered by a particular undertaking had arisen does not alter the general nature of that decision in any way.

19. With regard to the alleged illegality of the contested decision inasmuch as one of the considerations on which it was based was to ensure security of supply, the Danish Government relies, in the first place, on an argument of a general nature, to the effect that since Article 14 D/C is a generally applicable rule of law, its validity can and must be examined not in relation to specific factual circumstances but by comparing the scope of that provision with that of superior rules of law. In the circumstances, Article 58 of the ECSC Treaty lays down that quotas are to be determined 'on an equitable basis'. As for what is equitable, the answer to that question depends on an assessment to be made by the legislative authority, that is to say, in this case, the Council and the Commission. Their assessment cannot be set aside by the Court unless the legislative authority has manifestly exceeded the bounds of its discretion. In this case, the Commission took the view that the adoption of Article 14 D, as an element of the quota system, was justified. That provision can be annulled by the Court only if the applicants show that it was not objectively justified and that there was a misuse of powers to their detriment.

Scrutiny of the contested decision shows, according to the Danish Government, that it is based on considerations relating to security of supply and the survival of the undertaking concerned. In its view, the details of the arrangement in question reflect a desire, on the part of the legislative authority, to counter the trend in favour of doing away with steel production altogether in certain Member States as a result of the limits set to production and the other conditions imposed by the quota system. Moreover, that attitude has by and large been understood by most European steel producers. In addition, there are a number of reasons which may have induced the Community legislature to take account of such considerations, for instance, the concern to preserve an institutional balance and the influence of the Member States with regard to, as well as their interest in, cooperation.

The Danish Government points out that a rule of that kind is not unprecedented in Community steel legislation. It refers, in that regard, to Commission Decision No 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry (Official Journal 1981, L 228, p. 14). In that case, as in this case, a fundamental consideration is that of an undertaking being a Member State's sole steel producer. That involves an economic appraisal which can be verified only by taking into account the economic circumstances of the case.

Against that background, the Danish Government considers that the applicants' argument, based on factual data such as the existing outlets for DDS products and the state of the Danish market, is scarcely relevant. It argues that the question whether security of supply is adequate as regards certain products cannot be assessed on the basis of the state of a specific market, and still less on the basis of a situation in which the market is characterized by overcapacity. Any policy designed to guarantee supplies in a crisis should, in the event, provide for some supplies to be kept in reserve. From that point of view, the hypothesis of a crisis arising which is characterized by the impossibility — on account, for instance, of a political impasse or the outbreak of war — of delivering the products concerned on the domestic market, should be taken as a basis. In a situation of that kind, it is quite clear that a redistribution of consumption and production would be necessary. DDS would be able to change over to other forms of production, and could thus be kept in reserve. Hence if a crisis actually arose, DDS would be able, in conjunction with the rest of the country's industry, to meet a substantial part of the country's steel requirements, even as regards categories of products that do not, under normal conditions of competition, form part of the undertaking's production programme at national level.

For those reasons, the Danish Government maintains that the arguments relating to DDS's current exports and the actual state of the market in Denmark are not relevant. The Danish Government considers, moreover, that its point of view is supported by the Court's judgment in *Campus Oil*.

20. Further, and contrary to the view taken by the applicants, the Danish Government considers it highly unlikely that, at the time when the ECSC Treaty was drawn up, the possibility was envisaged that one or more Member States might be deprived of their iron and steel industries. Article 59 makes provision for an allocation of resources, but even that could not ensure adequate security of supplies in a real crisis.

21. Finally, the Danish Government fails to see any connection between *Finsider* and the issue of the legality of Article 14 D/C. In that case, the Court stated its views on the criterion for the allocation of quotas in general, and pointed out that quota supplements are not granted by reference to the market share held by an undertaking on the domestic market. Quota supplements were not in fact — and could not be — granted to DDS in conjunction with an 'exclusive' or 'preferential' right regarding deliveries on the Danish market. Instead, the sole purpose of those quota supplements was to enable DDS to survive. In addition, the Danish Government points out that *Finsider* dealt with the question whether the Commission was obliged to take certain concerns into account. Whether

the Commission may take those concerns into account is another matter.

The Danish Government therefore comes to the conclusion that the contested provision in the decisions complained of is not contrary to superior rules of law and, by adopting it, the Commission has not been guilty of a misuse of powers in any way.

C. Kakouris
Judge-Rapporteur